IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

MONDAY, THE 28TH MAY 2007 / 7TH JYAISHTA 1929

WP(C).No. 25959 of 2004(M)

AGAINST THE ORDER IN EP.NO.238 2004 IN
OS.707/2001 of MUNSIFF COURT, KARUNAGAPPALLY

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PETITIONER:

K.RAMACHANDRAN, KALARIKKAL VEETTIL,
MANAPALLY VADAKKUMMURIYIL, PAVUMBA VILLAGE,
KARUNAGAPALLY.

BY ADV. SRI.BRIJESH MOHAN
SMT.RESMI G. NAIR

RESPONDENTS:

BHASKARAN BABU, ITTIYASSERIL VEEDU,
MANAPALLY VADAKKUMMURIYIL, PAVUMBA VILLAGE,
KARUNAGAPALLY.

BY ADV. SRI.B.KRISHNA MANI
SRI.RAHUL VENUGOPAL

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 28/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX(WPC 25959/04)

PETITIONER'S EXTS.:

EXT.P1: TRUE COPY OF THE MEDICAL CERTIFICATE ISSUED TO THE PETITIONER.

EXT.P2: TRUE COPY OF I.A.NO.2611/03 FILED BY THE PETITIONER FOR RESTORING I.A.NO.2459/01 BEFORE THE MUNSIFF COURT, KARUNAGAPALLY.

EXT.P3: TRUE COPY OF I.A.NO.2610/03 FILED BY THE PETITIONER FOR CONDONING THE DELAY IN FILING I.A.NO.2611/03.

PIUS C. KURIAKOSE,J.

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W.P.(C) No.25959 of 2004

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Dated: 28th May, 2007

JUDGMENT

The judgment-debtor has filed this Writ Petition under Article 227 of the Constitution seeking a direction to the Munsiff Court, Karunagapally to dispose of Exts.P2 and P3 which are two applications respectively filed by him for setting aside the ex parte decree and for condoning the delay which has been caused in the matter. His immediate grievance is that even as Exts.P2 and P3 are pending before the trial court, the execution court has ordered arrest warrant against him. While admitting the Writ Petition and granting stay this court imposed a condition that a sum of Rs.7500/- shall be deposited by the petitioner before the court below within three weeks.

2. Having regard to the various grounds raised in the Writ Petition and the assertion of the petitioner that warrant was ordered at a time when Exts.P2 and P3 were pending, this Writ Petition will stand disposed of issuing the following directions:

The execution court will verify whether the petitioner has complied with the condition imposed by this court on 8.9.2004 that the petitioner shall deposit a sum of Rs.7500/-. If it is seen that the

above condition has been complied with, the execution court will further verify with the trial court whether Exts.P2 and P3 are pending. If it is seen that Exts.P2 and P3 are pending, the trial court will dispose of Exts.P2 and P3 at the earliest and the execution court will hold up all further execution proceedings till Exts.P2 and P3 are disposed of. If the petitioner has not complied with the condition ordered by this court for granting stay, the petitioner will forfeit the benefit of the above directions.

srd **PIUS C.KURIAKOSE, JUDGE**